

REMARKS

DISCUSSION OF SPECIFICATION

In response to the objection of the disclosure, the paragraph in the Cross-Reference to Related Applications has been amended to include updated information on the status of the related patent applications. Withdrawal of the objection is respectfully requested.

DISCUSSION OF CLAIMS

In the Office Action, claims 15 and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,324,427 to Florio in view of U.S. Patent Number 6,731,978 to Olson et al.

In the Office Action, claims 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In the Office Action, claims 2-5, 8-10, and 12-14 are allowed over the prior art of record.

In response thereto, claim 18 has been cancelled and claim 19 has been amended. Accordingly, claims 2-5, 8-10, and 12-17, 19, and 20 are now pending. Following is a discussion of the patentability of each of the pending claims.

Independent Claim 9 and Dependent Claims 2-5 and 8

In the Office Action, claims 2-5, 8, and 9 are allowed over the prior art of record.

Independent Claim 10

In the Office Action, claim 10 is allowed over the prior art of record.

Independent Claim 15

Claim 15 recites a method comprising delivering a backup pulse to a heart upon detection of a loss of capture of a primary pacing pulse, verifying capture of the backup pacing pulses, and delivering antitachycardia pacing (ATP) therapy if both a primary pacing pulse and a backup pulse are not captured.

The Florio reference is directed to a system and method for discriminating a fusion beat from an evoked response during autocapture/autothreshold routines of an implantable medical device. Discriminating a fusion beat from an evoked response is based on an analysis and comparison of morphology, amplitude, polarity, pattern and/or timing intervals of resulting T-waves.

The Florio reference does not disclose or suggest delivering ATP therapy if both a primary pacing pulse and a backup pulse are not captured. Nowhere does the Florio reference refer to ATP therapy. As stated previously, the Florio reference is directed to autocapture/autothreshold routines. With regards to the autocapture/autothreshold routines, a high output backup stimulus is provided in the event that an evoked response is not sensed after delivery of a primary pacing pulse. However, nowhere does the Florio reference discuss a routine for the event of a high output backup stimulus not evoking a response.

The Olson et al. reference is directed to an implantable device which detects and classifies arrhythmias and delivers appropriate therapy. The device employs a method of arrhythmia classification based on a set of prioritized rules. Each of the rules defines a plurality of criteria based upon characteristics of sensed depolarizations of heart tissue, and each rule is met when the criteria associated with the rules are met. Antiarrhythmia therapy is inhibited when some of the rules are met.

The Olson et al. reference does not disclose or suggest delivering ATP therapy if both a primary pacing pulse and a backup pulse are not captured. The Olson et al. reference discusses an anti-tachyarrhythmia pacing regiment as one example of antiarrhythmia therapy. However, the rules do not include the event of both a primary pacing pulse and a backup pulse not capturing.

Accordingly, it is respectfully submitted that claim 15 is in condition for allowance.

Dependent Claims 12-14, 16, and 17

Claims 12-14, 16, and 17 depend from claim 15 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claim 19

For at least the same reasons discussed previously with regards to claim 15, it is respectfully submitted that claim 19 is in condition for allowance.

Independent Claim 20

For at least the same reasons discussed previously with regards to claim 15, it is respectfully submitted that claim 20 is in condition for allowance.

CONCLUSION

In light of the above claim amendments and remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

2/26/07

Date

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CUSTOMER NUMBER: 36802